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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,683	06/27/2003	Lilkar Zugeil Molina	8797R	7701

27752 7590 03/15/2006

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EXAMINER

BUI, LUAN KIM

ART UNIT PAPER NUMBER

3728

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/607,683

Applicant(s)

MOLINA ET AL.

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-6,16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Prosecution Application***

1. The Request for Continued Examination (RCE) filed on 2/27/2006 under 37 CFR 1.114 based on parent Application No. 10/607,683 is acceptable and a RCE has been established. An action on the RCE follows.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 4-6, 16 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Hirotsu (2004/0102748).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C.

102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

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Hirotsu discloses a package comprising a container (10) including a layer having an interior surface and an exterior surface and the layer forming an interior space for holding absorbent articles (20). The absorbent articles including a plurality of absorbent articles consisting essentially of absorbent articles each having the same level of absorbency (paragraph 0030) and each of the absorbent articles being individually wrapped in a wrapper (page 2, paragraph 0024) and the wrapper having a signal indicating the level of absorbency. The signal being displayed as a distinctive color on the wrapper of each of the absorbent articles (page 3, paragraph 0027) and the exterior surface of the container (graph 17 and page 4, paragraphs 0038-0040). The container further comprises a first window (16) revealing at least a portion of the thickness of at least one of the absorbent articles and at least a portion of the distinctive color of the wrapper (page 3, paragraph 0033).

As to claims 4, 5, 16 and 17, see background.

As to claim 6, see paragraph 0033.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4-6, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brisebois et al. (6,454,095; hereinafter Brisebois'095) in view of Hirotsu (2004/0102748).

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Brisebois'095 discloses a package comprising a container (102) containing a plurality of absorbent articles (206) with each of the absorbent articles being individually wrapped in a wrapper and each wrapper having the same level of absorbency (104) and a signal indicating the level of absorbency. The signal being displayed as a distinctive design on the wrapper and the exterior surface of the container (Figures 1-8). Brisebois'095 also discloses the other claimed limitations except for the signal being displayed as a distinctive color and the container comprises a first window for revealing at least a portion of the the distinctive color of the wrapper.

Hirotsu discloses a package comprising a container (10) including a layer having an interior surface and an exterior surface and the layer forming an interior space for holding absorbent articles (20). Each of the absorbent articles being individually wrapped in a wrapper (page 2, paragraph 0024) and the wrapper having a signal indicating the level of absorbency. The signal being displayed as a distinctive color on the wrapper of each of the absorbent articles (page 3, paragraph 0027) and the exterior surface of the container (graph 17 and page 4, paragraphs 0038-0040). The container further comprises a first window (16) revealing at least a portion of the thickness of at least one of the absorbent articles and at least a portion of the distinctive color of the wrapper (page 3, paragraph 0033).

It would have been obvious to one having ordinary skill in the art in view of Hirotsu to modify the package of Brisebois'095 so the signal is displayed as a distinctive color to provide more convenience for the user and the package includes a first window for revealing at least a portion of the distinctive color of the wrapper to allow visual access to the articles within the package.

As to claims 4, 5, 16 and 17, see column 1, lines 5-16.

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As to claim 6, see paragraph 0033 of Hirotsu.

***Response to Arguments***

Applicant's arguments with respect to 2/27/2006 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's arguments with respect to Hirotsu are noted. They are not persuasive because Hirotsu has a provisional application number 60/294,515 filed on May 30, 2001 prior of the December 7, 2001.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb  
March 12, 2006



Luan K. Bui  
Primary Examiner  
Art Unit 3728